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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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January 6, 1994

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Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Implementation of Sections of the Cable Television  
Consumer Protection and Competition Act of 1992  
Rate Regulation  
MM Docket No. 92-266  
MM Docket No. 93-215  
Oral Ex Parte Presentations

Dear Mr. Caton:

This letter is being submitted in accordance with Section 1.1206 of the Commission's Rules to report oral ex parte presentations regarding the above-referenced proceedings made on behalf of Comcast Corporation by the undersigned, Jane E. Jackson and Stephen C. Gerard on January 5, 1994. Presentations were made to the following persons: Patrick J. Donovan, Aaron Goldschmidt, and Paul Gallant of the Mass Media Bureau; Maureen O'Connell of Commissioner Quello's office; Merrill Spiegel of Chairman Hundt's office; and James Coltharp and Esther Rosenthal of Commissioner Barrett's office. During these presentations, matters raised in Comcast's comments in these proceedings were discussed.

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In accordance with the requirements of Section 1.1206(a)(2) of the Commission's Rules, an original and one copy of this letter are being submitted to the Acting Secretary and copies are being submitted to the persons named above.

Respectfully submitted,

*Leonard J. Kennedy /lej*

Leonard J. Kennedy

Attachment

cc: Mr. Patrick J. Donovan  
Mr. Aaron Goldschmidt  
Mr. Paul Gallant  
Ms. Maureen O'Connell  
Ms. Merrill Spiegel  
Mr. James Coltharp  
Ms. Esther Rosenthal

COMCAST CABLE COMMUNICATIONS, INC.  
COST OF SERVICE RULEMAKING  
MM Dkt. 93-215  
January 5, 1994

Essential Elements of a Cost-of-Service  
Ratemaking Methodology for Cable Television

- Balance consumer and investor interests
- Recognize differences between cable and traditional regulated utilities
- Permit cable operators to recover and earn a return on investment in tangible and intangible assets

### Balancing consumer and investor interests

- The Constitution protects cable investors against confiscation of their investment in cable television systems.
  - Investments were made in an unregulated environment.
  - Investors are entitled to the opportunity to recover those investments and to earn a return commensurate with the risks assumed.
- Cable Act protects consumers against unreasonable cable television rates.
  - If existing rates are justified they are not unreasonable and consumers are not entitled to a rate decrease.
- The original cost rate base methodology proposed in the cost of service NPRM, without modification, will produce confiscatory end results for some cable systems.

### Differences Between Cable Television and Traditional Public Utilities

- Investor expectations based on regulatory circumstance
  - Telephone companies and other utilities have been subject to rate regulation continuously for most of this century. Investor expectations incorporate traditional rate regulation.
  - Cable television was expressly relieved of rate regulation under the Cable Act of 1984. Investors expected the risks and rewards of an unregulated marketplace, and did not anticipate reregulation and attendant regulatory risk.
- Competition, penetration and consumer choice
  - Water, electricity, gas, and local telephone are essential services. They face little or no competition for residential customers. Their financial risks are limited because they are virtually guaranteed nearly 100% market penetration.
  - Cable television is not an essential service. Other forms of video entertainment are readily available. There is a high level of financial risk because there is no certainty that consumers to whom cable service is available will in fact subscribe.

- Nature of the product and source of value
  - Traditional utilities provide a uniform, predictable product. There is little risk that subscribers will reject this product. Physical plant represents most of the investment in such utilities.
  - Cable provides a highly variable product. To attract a large subscriber base and retain the business of existing subscribers, operators must constantly develop and provide high quality programming. There is a high level of investment in intangible assets such as the subscriber list.
- Stage of development
  - Utilities are established, mature businesses. Any start up costs and deferred losses were absorbed decades ago.
  - Cable is in a growth stage of development. Many systems have unrecovered start up costs and deferred losses.

**Cable Operators Must Be Allowed to Recover and Earn Return on Investment in Intangible Assets.**

- The value of any business includes both tangible and intangible assets.
  - Most businesses are worth much more than the net book cost of physical plant.
  - Example: a broadcast station is worth far more than book value of its transmitter and studio.
- Investors who purchased nonregulated cable systems in arms-length transactions paid prices equal to the fair market value of both physical plant and intangible assets.
- Excluding intangible assets from ratebase will deny investors in some systems any recovery of most of their investment.
- Intangible assets of cable systems include
  - Subscriber lists
  - Going concern value

- Franchise value
- o Cable programming service rates that include a reasonable return on investment in both tangible and intangible assets may be much higher than the rates currently charged.
  - If an operator can justify a rate higher than its existing rate, the operator should be permitted to charge the existing rate, and to take increases in the future sufficient to recover and earn a return on its investment.
  - An amortization adjustment factor, or Z factor, should be calculated to spread necessary rate increases over a period of time.
  - The Z factor, determined at the time the operator makes its initial rate justification, would balance consumer and investor interests by preventing operators from taking large cost-justified rate increases all at once.